RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Department of Health

☒ **Permanent Rule**
☐ **Emergency Rule**

Effective date of rule:
Permanent Rules
☒ 31 days after filing.
☐ Other (specify) _____ **(If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)**

Effective date of rule:
Emergency Rules
☐ Immediately upon filing.
☐ Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?
☐ Yes ☒ No If Yes, explain:

Purpose: To amend the recently adopted WAC 246-272A-0130. This rule contains the protocol to be used by manufacturers when demonstrating the bacteriological reduction capabilities of their onsite sewage (septic) treatment products. The protocol adopted in July, 2005 was discovered to be overly burdensome and potentially unreliable. The State Board of Health adopted an emergency rule to address this issue on September 6, 2005 and delegated permanent rule making to the Department of Health. This rule adoption permanently amends the previous protocol to one that is workable and less burdensome.

Citation of existing rules affected by this order:
Repealed:
Amended: 246-272A-0130
Suspended:

Statutory authority for adoption: RCW 43.20.050

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)
Adopted under notice filed as WSR 05-21-123 on October 19, 2005 (date).
Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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EMERGENCY RULE ONLY
Under RCW 34.05.350 the agency for good cause finds:
☐ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted: 12/12/05

NAME (TYPE OR PRINT)
Mary C. Selecky

SIGNATURE
Mary C. Selecky

TITLE
Secretary

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

DEC 12 2005

TIME 1001 AM (PM)
WSR 06-01-020

(COMPLETE REVERSE SIDE)

Note: If any category is left blank, it will be calculated as zero. No descriptive text.

Count by whole WAC sections only, from the WAC number through the history note. A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

	New	_____	Amended	_____	Repealed	_____

The number of sections adopted in the agency's own initiative:

	New	_____	Amended	1	Repealed	_____

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

	New	_____	Amended	_____	Repealed	_____

The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	1	Repealed	_____

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 9/15/05)

WAC 246-272A-0130 Bacteriological reduction. This section establishes the requirements for registering bacteriological reduction processes.

(1) Manufacturers shall, for the purpose of product registration as described in WAC 246-272A-0110 and 246-272A-0120 for meeting treatment levels A, B, or C, verify bacteriological reduction performance by sampling for fecal coliform.

(a) For products not yet tested according to ANSI/NSF Standard 40 testing protocol dated July 1996 or later, the requirements of both ANSI/NSF Standard 40 and the protocol specified in subsection (2) of this section for verifying bacteriological reduction must be met.

(b) For products that have been tested according to ANSI/NSF Standard 40 dated July 1996 or later but have not yet been tested for bacteriological reduction, treatment performance of the treatment product or sequence may be established based on test results for $CBOD_5$ and TSS obtained from the previous ANSI/NSF Standard 40 testing and bacteriological reduction performance based on testing according to the protocol in subsection (2) of this section. Provided that the testing entity must verify the influent wastewater stream throughout the bacteriological testing period meets the influent threshold levels for $CBOD_5$ and TSS required by ANSI/NSF Standard 40 testing protocol.

(2) All test data submitted for product registration shall be produced by an ANSI accredited, third-party testing and certification organization whose accreditation is specific to on-site wastewater treatment products. Bacteriological reduction performance must be determined while the treatment product or sequence is tested according to the ANSI/NSF Standard 40 testing protocol. During this testing the following requirements apply:

(a) Collect samples from both the influent and effluent streams, identifying the treatment performance achieved by the full treatment process (component or sequence);

(b) Obtain influent characteristics falling within a range of 10^6 - 10^8 fecal coliform/100 mL calculated as thirty-day geometric means during the test.

(c) Test the influent to any disinfection unit and report the following at each occasion of sampling performed in (d) of this subsection:

(i) Flow rate;
(ii) pH;
(iii) Temperature;
(iv) Turbidity; and
(v) Color.

(d) Obtain samples for fecal coliform analysis ((~~throughout the testing period, including both design loading and stress loading recovery periods, as follows:~~

~~(i) Both an influent and an effluent grab sample must be taken during each of the three daily design loading periods on three separate days of each week; and~~

~~(ii) The three influent samples collected each day must be combined and analyzed as a single sample for that day. The effluent samples for each day must also be combined and analyzed as a single sample for that day~~)) during both the design loading and stress loading periods identified by NSF Standard 40. Grab samples shall be collected from both the influent and effluent on three separate days of the week. Each set of influent and effluent grab samples must be taken from a different dosing time frame (morning, afternoon, or evening) so that samples have been taken from each dosing time frame by the end of the week.

(e) Conduct analyses according to standard methods;

(f) Report the geometric mean of fecal coliform test results from all samples taken within thirty-day or monthly calendar periods;

(g) Report the individual results of all samples taken throughout the test period design and stress loading; and

(h) Report all maintenance and servicing conducted during the testing period, including for example, instances of cleaning a UV lamp, or replenishment of chlorine chemicals.

(3) Manufacturers may register products in treatment levels A and B using disinfection.

(4) Manufacturers may not register products for treatment level C using disinfection.